

CITY COUNCIL PROCEEDINGS

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MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, January 25, 2005
Tuesday, 9:45 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Lambke, Martz, Schlapp; present.

George Kolb, City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

The Minutes of the January 6 and 11, 2005 meetings were approved 7 to 0.

CONSENT AGENDA

Mayor Mayans Mayor Mayans stated that Staff has requested that Item 13 - Weapons Destruction, be pulled from the agenda.

Motion-- Mayans moved that the Consent Agenda be approved as consensus Items except for Item 13.
--carried Motion carried 7 to 0.

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED JANUARY 24, 2005.

Bids were opened January 14 and January 21, 2005, pursuant to advertisements published on:

Hoover, from the south line of Elm to the north line of 9th Street North to serve Avery, Barnett's and Patterson Gardens Additions (Hoover, north of Central) (472-83908/765845/490956) Traffic to be maintained during construction using flagpersons and barricades. (District VI)

Cornejo & Sons Construction - \$199,908.55

Stormwater Sewer #594 to serve Reed's Cove Addition (south of 21st Street North, east of 127th Street East) (468-83712/751387/485278) Does not affect existing traffic. (District II)

Duling Construction - \$59,294.00

Harry, I-135 to George Washington Boulevard \ (87N-0229-01/472-83686/448-89553/468-83460/706851/636102/620344/203317/771500/662467) Traffic to be maintained during construction using flagpersons and barricades. (District I, III)

Cornejo & Sons Construction - \$1,164,630.95

Lateral 4, Main 10, Four Mile Creek Sewer to serve The Fairmont Third Addition - north of 21st Street North, west of 127th Street East. (468-83935/744099/480787) Does not affect existing traffic. (District II)

Mies Construction - \$77,028.00

Storm Water Drain #244 to serve Remington Place Third Addition - south of 21st Street North, east of Webb. (468-83928/751390/485281) Does not affect existing traffic. (District II)

Dondlinger & Sons - \$40,292.00 (Negotiated to engineer's estimate)

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Storm Water Sewer #610 to serve Southern Ridge Second Addition - south of Pawnee, west of Maize Road. (468-83894/751386/485277) Does not affect existing traffic. (District IV)

Mies Construction - \$324,894.00

Lateral 108, Sanitary Sewer #23 to serve Sand Plum Addition - south of 45th Street North, west of Webb. (468-83822/744073/480761) Does not affect existing traffic. (District II)

Mies Construction - \$154,146.00

Water Distribution System to serve Sand Plum Addition - south of 45th Street North, west of Webb. (448-89958/735209/470879) Does not affect existing traffic. (District II)

Mies Construction - \$24,017.00

Planeview Park Parking Lot - along East Cessna, east of Holyoke. (472-84140 /602559/800402) Traffic to be maintained during construction using flagpersons and barricades. (District III)

Barkley Construction - \$23,000.00

Motion --

Mayans moved that the contracts be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

carried

PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION: Various Parks Replacements Bathroom Fixtures.

Caro Construction Co. Inc.* - \$8,958.00 (Group 2 total net bid)

Sutherland Builders Inc.* - \$5,870.00 (Group 3 total net bid)

*Awards redirected

PUBLIC WORKS DEPARTMENT/MAINTENANCE DIVISION: Tree & Limb Removal and Debris Management.

Young General Contracting - \$59.80 per ton*

*Estimate – Contract approved on unit cost basis.

Motion--

Mayans moved that the report be received and filed; Contracts approved and the necessary signatures authorized. Motion carried 7 to 0.

--carried

CMBS

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>New Operator</u>	<u>2005</u>	<u>(Consumption on Premises)</u>
Mon Fee Wong	Golden Dragon Restaurant*	6100 21st Street, Suite #180
<u>Renewal</u>	<u>2005</u>	<u>(Consumption off Premises)</u>
Dwayne Kahns	Sunrise Car Care	6327 East 13th Street
Mark Branham	QuikTrip #396	324 South West Street
Greg Johnson	Whata Stop	1203 East Pawnee
<u>New Operator</u>	<u>2005</u>	<u>(Consumption off Premises)</u>
Mohammad S. Naeem	Shawn Enterprises LLC	802 North West Street

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

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Motion--
--carried

Mayans moved that the licenses subject to Staff review and approval be approved. Motion carried 7 to 0.

PRELIMINARY ESTS. PRELIMINARY ESTIMATES:

- a) Sidewalk along the west side of Reserve A to serve Reed's Cove Addition & Reed's Cove Second Addition - south of 21st Street North, east of 127th Street East. (472-84110/765909/490022) Does not affect existing traffic. (District II) - \$96,500
- b) Murdock Bridge Emergency Waterline Replacement - Murdock, west of Waco. (448-89900/188425/636126/) Traffic to be maintained during construction using flagpersons and barricades. (District VI) - \$490,400
- c) Lateral 18, Main 19 Southwest Interceptor Sewer to serve Ridge Port 4th & 5th Additions - north of 29th Street North, east of Ridge. (468-83922/744097/480785) Does not affect existing traffic. (District V) - \$23,000
- d) Lateral 5, Main 14 Four Mile Creek Sewer to serve Reed's Cove Addition - south of 21st Street North, east of 127th Street East. (468-83896/744098/480786) Does not affect existing traffic. (District II) - \$63,000
- e) Water Distribution System to serve Reed's Cove Addition - south of 21st Street North, east of 127th Street East. (448-89852/735230/470901) Does not affect existing traffic. (District II) - \$25,000
- f) Lateral 35, Main 17 War Industries Sewer to serve The Plaza at Cherry Creek Hills Addition - north of Oak Knoll, east of Rock. (468-83898/744091/480779) Does not affect existing traffic. (District II) - \$22,000
- g) Storm Water Drain #240 to serve The Plaza at Cherry Creek Hills Addition - north of Oak Knoll, east of Rock. (468-83899/751383/485274) Does not affect existing traffic. (District II) - \$59,000
- h) Water Distribution System to serve Fox Ridge Addition - north of 29th Street North, east of Maize. (448-89838/735226/470896) Does not affect existing traffic. (District V) - \$62,000
- i) Lateral 8, Northwest Interceptor Sewer to serve Fox Ridge Addition - north of 29th Street North, east of Maize. (468-83646/744095/480783) Does not affect existing traffic. (District V) - \$75,000
- j) Camden Chase from the east line of Loch Lomond to the east line of Lot 14, Block 5; Rosemont Court serving Lots 7 through 17, Block 4 from the east line of Rosemont to and including the cul-de-sac; Loch Lomond Court serving Lots 30 through 42, Block 4, from the west line of Loch Lomond to and including the cul-de-sac; Camden Chase/Loch Lomond from the east line of Williamsgate to the north line of Lot 42, Block 4 to serve Hawthorne 3rd & 4th Additions - north of 21st Street North, east of 127th Street East. (472-84081/765913/490026) Does not affect existing traffic. (District II) - \$506,000
- k) 2005 Sanitary Sewer Reconstruction, Phase 1 - various locations between 31st Street South and 21st Street North, & between Tyler and Oliver. (468-83944/620424/665544) Traffic to be maintained during construction using flagpersons and barricades. (District ALL) - \$213,000

Motion--carried

Mayans moved that the file be approved. Motion carried 7 to 0.

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DEEDS/EASEMENTS DEEDS AND EASEMENTS:

- a) A Sanitary Sewer Easement dated December 6, 2004 from Larry W. and M. Ellen Ryan located over a tract of land in Lot 34, Westfield Acres, in the City of Wichita, Sedgwick County, Kansas (OCA #744076). No Cost to City
- b) A dedication for street right-of-way dated December 20, 2004 from Parks and Recreation, City of Wichita located over a tract of land in Lot 1, Block G and Block U, Planeview Subdivision, in the City of Wichita, Sedgwick County, Kansas (OCA#602559). No Cost to City
- c) A Utility easement dated November 25, 2004 from Fox Ridge Development Company, Inc. located over a tract of land in Lot 52, Block 4, Fox Ridge Addition, an addition to Wichita, Sedgwick County, Kansas (OCA#744095). No Cost to City
- d) A Drainage Easement dated December 2, 2004 from Dale and Norma Hecox Living Trust located over a tract of land in Lot 1, The Plaza at Cherry Creek Hills, Wichita, Sedgwick County, Kansas (OCA#751383). No Cost to City
- e) A Utility Easement dated December 2, 2004 from Dale and Norma Hecox Living Trust located over a tract of land in Lots 1 and 2, The Plaza at Cherry Creek Hills, Wichita, Sedgwick County, Kansas (OCA#744091). No Cost to City
- f) A Drainage Covenant dated December 2, 2004 from Dale and Norma Hecox Living Trust located over a tract of land in Lot 1, The Plaza at Cherry Creek Hills, Wichita, Sedgwick County, Kansas (OCA#751383). No Cost to City

Motion--carried

Mayans moved that the documents be accepted. Motion carried 7 to 0.

REED'S COVE

PETITION TO CONSTRUCT A SIDEWALK IN RESERVE A, REED'S COVE ADDITION, SOUTH OF 21ST STREET, EAST OF 127TH STREET EAST. (DISTRICT II)

Agenda Report No. 05-0065

On October 12, 2004, the City Council approved a Petition to construct a sidewalk in Reserve A, Reed's Cove Addition. An attempt to award a contract within the budget set by the Petition was not successful. The developer has submitted a new Petition with an increased budget. The signatures on the new Petition represent 100% of the improvement district.

The project will serve a new residential development located south of 21st, east of 127th St. East.

The existing Petition totals \$58,000. The new Petition totals \$96,500. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion--carried

Mayans moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 05-044

Resolution of findings of advisability and Resolution authorizing improving sidewalk along the west side of Reserve A, Reed's Cove Addition, 772-84110 (south of 21st Street, east of 127th Street East, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans

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STREET CLOSURE STREET CLOSURE – MACARTHUR ROAD-ONE-FOURTH MILE EAST OF HYDRAULIC. (DISTRICT III)

Agenda Report No. 05-0066

On October 19, 2004 the City Council approved a contract with Utility Contractors Inc.(UCI) to accomplish modifications to Sewage Treatment Plants 1 and 2. Included in the scope of work are structural modifications to two existing sewage junction boxes at the location of the Emery Park entrance on MacArthur Road. The reconstruction of these junction boxes will require an excavation approximately 20 feet deep just behind the curb line. To improve the safety of passing motorists and construction workers UCI is requesting the approval of a partial street closure at this location. It is estimated to take approximately 4 weeks to complete each junction box reconstruction. The requested partial street closure is tentatively scheduled to begin approximately 9:00 am Wednesday, January 26, 2005 and be completed on or before Friday, March 25, 2005.

Utility Contractors Inc. is responsible for the placement of the required construction signs and barricades and the notification of area businesses and residents. MacArthur Road traffic will be carried in one lane each direction through the work area.

Motion--carried Mayans moved that the partial street closure be approved. Motion carried 7 to 0.

CARGILL, INC. CARGILL INC.-CITY OF WICHITA ACCESS AGREEMENT.

Agenda Report 05-0067

The City of Wichita, Department of Environmental Health (EH) is continuing environmental investigation work in the North Industrial Corridor (NIC) Site. There are occasions when the City must access private property in order to obtain groundwater samples. EH and its consultant have requested access to a parcel of land owned by Cargill Inc. This activity is needed to complete source identification and plume migration of the immediate area. Cargill Inc., the owner, requires an access agreement between the City and Cargill Inc. that specifies the activities that are conducted on site and the liabilities should personal injury or accident occur on their property during the period when the City and its agents are on site. To that end, the City of Wichita and Cargill Inc. have drafted an access agreement that outlines the limits and specifics of the liabilities to both parties and specifies the work to be done. Generally, formal access agreements with property owners are routinely entered as an administrative matter. Council approval is necessary for this agreement, however, because of the additional terms liability and indemnification Cargill Inc. is requiring.

The access agreement grants the City and its consultant the right of entry onto the property for environmental investigation and sets the conditions applicable during the fieldwork performed on the Cargill Inc. property. The City agrees to indemnify the owner for any damages to the owner caused by the City's activities. Insurance requirements of the agreement are assumed by the City's consultant and are not the responsibility of the City. The City agrees to protect the confidentiality of Cargill-provided information to the extent allowed by law.

The action does not increase the amount of expenditure to the City, instead, it re-enforces current liability limits that are set by the City's self insurance practice and uses the insurance limits established by the City's consultant, Camp Dresser & McKee (CDM). CDM will add Cargill Inc. to the umbrella coverage of their liability insurance policy.

The agreement has been negotiated by the Law Department and is reviewed and approved as to form.

Motion-- Mayans moved that the agreement be approved and the necessary signatures authorized. Motion
--carried carried 7 to 0.

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EL PASO

EL PASO MERCHANT ENERGY-CITY OF WICHITA ACCESS AGREEMENT.

Agenda Report 05-0068

The City of Wichita, Department of Environmental Health (EH) is continuing environmental (groundwater) investigation work in the North Industrial Corridor (NIC) Site. There are occasions when the City must access private property in order to obtain groundwater samples and complete the fieldwork. EH The City of Wichita and its consultant and subcontractors have requested access to a parcel of land owned by El Paso Merchant Energy, (previously owned by Coastal/Derby) on 29th Street North at St. Francis Street. This activity is needed to complete source identification and plume migration of the immediate area. In addition, KDHE, has required the sampling of this site. El Paso, the owner, requires an access agreement between the City and El Paso that limits El Paso's liability should personal injury or accident occur on their property during the period when the City and its agents are on site. To that end, the City of Wichita and El Paso have drafted an access agreement that outlines the limits and specifics of the liabilities to both parties. Generally, formal access agreements with property owners are routinely entered as an administrative matter.; Council approval is necessary for this agreement, however, because of the additional liability and indemnification requirements of El Paso.

The Access Agreement grants the City and its consultant the right of entry onto the property for environmental investigation and sets the conditions applicable during the fieldwork performed on the El Paso property. The City agrees to indemnify the owner for any damages to the owner caused by the City's activities. Insurance requirements of the Agreement are assumed by the City's consultant and are not the responsibility of the City.

The action does not increase the amount of expenditure to the City, instead, it re-enforces current liability limits that are set by the City's self insurance practice and uses the insurance limits established by the City's consultant, Camp Dresser & McKee (CDM). CDM has added El Paso to the umbrella coverage of their liability insurance policy.

The Agreement has been negotiated by the Law Department and is reviewed and approved as to form.

Motion--
--carried

Mayans moved that the agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

SOUTHERN RIDGE

CONSTRUCTION ENGINEERING AND STAKING IN SOUTHERN RIDGE ADDITION, SOUTH OF PAWNEE, WEST OF MAIZE. (DISTRICT V) – SUPPLEMENTAL.

Agenda Report No. 05-0069

The City Council approved the water distribution system and sanitary sewer improvements in Southern Ridge Addition on September 14, 2004. On October 26, 2004 and November 17, 2004 the City approved Agreements with Baughman Company, P.A. to design the improvements. The Design Agreements with Baughman requires Baughman to provide construction engineering and staking services if requested by the City.

The proposed Supplemental Agreements between the City and Baughman provides for construction engineering and staking for the improvements. Due to the current workload created by previous projects, City crews are not available to perform the construction engineering for this project.

Payment to Baughman will be on a lump sum basis of \$16,410, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Supplemental Agreements be approved and the necessary signatures authorized. Motion carried 7 to 0.

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EASEMENT

EASEMENT ENCROACHMENT AGREEMENT. (DISTRICT V)

Agenda Report No. 05-0070

The Agreement allows Neville Family Trust III and Aberdeen Square Land Development, Inc., to occupy and construct, improvements on, over, and across a public utility easement described as the north 20 feet and the east 20 feet of Lot 2, Block 1, Aberdeen Commercial Addition hereinafter referred to as Tract "A" and waives all rights of action in law arising out of the encroachment into the easement. The improvement is a masonry wall along the north two feet of the north 20-foot easement and the east two feet of the east 20-foot easement in above said easements.

The Agreement allows the City to be held harmless from any and all claims resulting from leaking, cave-in or failure of said sewer line lying within Tract "A" and from claims resulting from replacement or upgrade of lines, manholes, and/or other Department property in the easement.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

FOX RIDGE ADD.

DESIGN SERVICES FOR FOX RIDGE ADDITION, NORTH OF 29TH STREET NORTH, BETWEEN MAIZE AND TYLER. (DISTRICT V)

Agenda Report No. 05-0071

The City Council approved the water distribution system, sanitary sewer, drainage and paving improvements in Fox Ridge Addition on June 10, 2003.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond-financed improvements consisting of water distribution system, sanitary sewer, drainage and paving in Fox Ridge Addition. Per Administrative Regulation 7a, Staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$80,400, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

HAWTHORNE

DESIGN SERVICES FOR HAWTHORNE THIRD AND KRUG NORTH ADDITIONS, NORTH OF 21ST STREET, EAST OF 127TH STREET EAST. (DISTRICT II)

Agenda Report No. 05-0072

The City Council approved the water distribution system and paving improvements in Hawthorne 3rd and Krug North Additions on August 17, 2004.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of water distribution system and paving in Hawthorne 3rd and Krug North Additions. Per Administrative Regulation 7a, Staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$43,950, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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REGENCY LAKES

DESIGN SERVICES FOR REGENCY LAKES COMMERCIAL SECOND ADDITION, NORTH OF 21ST STREET, WEST OF GREENWICH. (DISTRICT II)

Agenda Report No. 05-0073

The City Council approved the water distribution system and sanitary sewer improvements in Regency Lakes Commercial 2nd Addition on September 28, 2004.

The proposed Agreement between the City and Professional Engineering Consultants, P.A. (PEC) provides for the design of bond financed improvements consisting of water distribution system and sanitary sewer in Regency Lakes Commercial 2nd Addition. Per Administrative Regulation 7a, Staff recommends that PEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to PEC will be on a lump sum basis of \$16,000, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

LIBERTY PARK

DESIGN SERVICES FOR LIBERTY PARK SECOND ADDITION, COPPER GATES ESTATES & COPPER GATE ADDITIONS, SOUTH OF 13TH STREET ALONG BOTH SIDES OF 135TH STREET WEST. (DISTRICT V)

Agenda Report No. 05-0074

The City Council approved the water distribution system improvements in Liberty Park 2nd Addition, Copper Gates Estates & Copper Gate Addition on June 22, 2004.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system in Liberty Park 2nd Addition, Copper Gates Estates & Copper Gate Addition. Per Administrative Regulation 7a, Staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$10,800, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

REED'S COVE

DESIGN SERVICES FOR REED'S COVE AND REED'S COVE SECOND ADDITIONS, SOUTH OF 21ST STREET, EAST OF 127TH STREET EAST. (DISTRICT II)

Agenda Report No. 05-0075

The City Council approved the water distribution system, sanitary sewer, storm water drainage and paving improvements in Reed's Cove and Reed's Cove 2nd Additions on September 13, 2003.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer, storm water drainage and paving in Reed's Cove and Reed's Cove 2nd Additions. Per Administrative Regulation 7a, Staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$32,500, and will be paid by special assessments.

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Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

WICHITA CLINIC

DESIGN SERVICES FOR WICHITA CLINIC ADDITION, SOUTH OF 21ST STREET, EAST OF K-96 EXPRESSWAY. (DISTRICT II)

Agenda Report No. 05-0076

The City Council approved the paving improvements in Wichita Clinic Addition on December 2, 2003.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond-financed improvements consisting of paving in Wichita Clinic Addition. Per Administrative Regulation 7a, Staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$23,800, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

FOUR H ADDITION

DESIGN SERVICES FOR FOUR H ADDITION, NORTH OF CENTRAL, WEST OF TYLER. (DISTRICT V)

Agenda Report No. 05-0077

The City Council approved the water distribution system, sanitary sewer and paving improvements in Four H Addition on January 13, 2004.

The proposed Agreement between the City and Poe & Associates, Inc. provides for the design of bond-financed improvements consisting of water distribution system, sanitary sewer and paving in Four H Addition. Per Administrative Regulation 7a, Staff recommends that Poe be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Poe will be on a lump sum basis of \$14,520, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

INDUS SALES TAX

AUTHORIZATION OF PAYMENT OF SALES TAX - INDUS SALES TAX.

Agenda Report No. 05-0078

On December 21, 2004, City Council approved a Contract with Indus for the purchase of licenses relating to the upgrade of the Water and Sewer Department's Customer Information System (Banner).

The approved Contract amount for \$288,000 did not include sales tax. Subsequently, an interpretation of the applicable regulations relating to tax liability has determined that it is necessary to pay, given that the purchase was at least in part for the Water Utility.

The Kansas Department of Revenue has concluded that purchases of software that are wholly, or partially, for use by the Water Utility are taxable. The sales tax amount was inadvertently omitted from the agenda report for the Indus agenda Item on December 21.

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The additional amount required for payment on the referenced Contract is \$18,144 in sales tax. Funding for the sales tax will be incorporated into the operating budget of the Water Utility in the 2005 Revised Budget.

The requirement to pay the sales tax on the Indus Contract has been reviewed and verified by the Law Department.

Motion--
--carried

Mayans moved that the payment of \$18,144 for sales tax on the Contract with Indus be approved. Motion carried 7 to 0.

IMPROVEMENTS

RESTROOM FACILITIES FOR WATER UTILITY SUBSTATIONS-TRANSFER OF FUNDS.

Agenda Report No. 05-0079

In 2001, the City Council approved the construction for the relocation of the Water Distribution Division of the Water & Sewer Department. The service sections of the Water Distribution Division that install new water services were relocated to the west Public Works substation at 5801 West 3rd Street and the east Public Works substation at 2911 East 33rd Street North.

As part of the relocation to the Public Works substations, new facilities were constructed for water installation and maintenance crews. The new facilities were constructed to house personnel and equipment of these service sections. It was projected by architects that Water & Sewer Department personnel in the new facilities could easily share a portion of the existing Public Works structures, including restroom facilities.

A grievance filed by SEIU Local 513 on September 7, 2004, states that the shared facilities do not function according to expectations. The existing facilities are not large enough to effectively serve both Public Works and Water & Sewer Department employees. Though the new buildings are functional, the restroom, which is located in another Public Works building, is not readily accessible for the water service crews to utilize. Employees must commute from their building to the Public Works building. Therefore, Staff recommends that new restroom facilities be constructed at the existing Public Works substations located at 5801 West 3rd Street and 2911 East 33rd Street North.

Estimated cost for the two facilities is \$50,000. The 2004 budget for the Unidentified Water Mains (CIP W-65) has a balance of \$4 million. Staff recommends transferring \$50,000 to fund a CIP project to construct the restroom facilities.

Motion--
--carried

Mayans moved that the expenditure be approved; the transfer of funds and new CIP project approved; the Resolution adopted and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. 05-045

A Resolution of the City of Wichita, Kansas, declaring it necessary to construct, reconstruct, alter, repair, improve extend and enlarge the Water and Sewer Utility owned and operated by the City and to issue Revenue Bonds in a total principal amount which shall not exceed \$50,000, exclusive of the cost of interest on borrowed money, for the purpose of paying certain costs thereof, and providing for the giving of notice of such intention in the manner required by law, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

2005 CSBG

2005 COMMUNITY SERVICES BLOCK GRANT APPLICATION.

Agenda Report 05-0080

The Community Services Block Grant (CSBG) is a federal program targeted to the needs of the low-income. Funds are awarded by formula to Community Action Programs (CAPs) throughout the state.

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The City of Wichita has been a CAP and received CSBG funds since the mid-1970's. The Career Development Division of the General Government Department administers the CSBG program locally.

An annual application is required for receipt of the CSBG funds. Activities in the application include the prescription drug component of Project Access, support of the Neighborhood City Halls, summer day care and recreation for children of low-income families through the Park Department's Summer of Discovery, and neighborhood clean-ups.

No general operating funds from the City's budget are obligated by the application.

The CSBG Review Committee met on January 7, 2005 to consider the 2005 Application and the consensus of Committee members present was to approve the application.

Motion--
--carried

Mayans moved that the 2005 CSBG application be approved and the necessary signatures authorized. Motion carried 7 to 0.

LEGAL ASSISTANT

CREATION OF LEGAL ASSISTANT POSITION FROM TORT FUND.

Agenda Report 05-0081

Law Department is defending a significant number of labor-intensive, civil cases, including several civil rights/police excessive force litigation cases, in which the assistance of a volunteer legal assistant has been significantly beneficial. To ensure the Law Department will continue to have access to this level of support, the Department desires to set up arrangements to pay for legal assistant services.

Given the degree of attorney direction and supervision under which a legal assistant in litigation matters must work, and in view of the IRS multi-factor test for classification of a worker as an employee or contractor, Law Department has determined that it is more appropriate to create an employee position on payroll for a legal assistant, rather than seeking to "contract" with a legal assistant for services using the contractuels line of the Tort Fund (OL3 2506 of OCA 040063).

The Legal Services line of the Tort Fund Budget (OL3 2506 of OCA 040063) currently includes \$92,730 for contractual Items. The Law Department estimates that the following amounts, shifted from OL3 2506 to the lines for personnel, telephone and computer/access costs in years 2005-2007, will cover the costs of an Administrative Aide II, Range 623, to provide legal assistant services within the existing Tort Fund budget: \$38,266 for 2005, \$38,838 for 2006 and \$40,871 for 2007.

The creation of the Administrative Aide II position for the legal assistant and approval of necessary budget adjustments will provide legal assistant support for the Law Department's litigation caseload, at a predictable cost, and in a manner consistent with IRS employee classification guidelines.

Motion--
--carried

Mayans moved that the creation of a position for a legal assistant, classified as an Administrative Aide II, Range 623, to be paid from Tort Fund (OCA 040063) be approved and any necessary budget adjustments and transfers be authorized. Motion carried 7 to 0.

(Item 13) WEAPONS

WEAPONS DESTRUCTION.

(THIS ITEM WAS PULLED FROM THE AGENDA)

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CONDEMNATIONS REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES.

Agenda Report No. 05-0083

On January 10, 2005 the Board of Code Standards (BCSA) held a hearing on the following property. This property is considered a dangerous and unsafe structure, and is being presented to schedule a condemnation hearing before the Governing Body.

Improvement notices have been issued on the structure, however, compliance has not been achieved. Pre-condemnation and formal condemnation letters were issued and the time granted has expired. No action has been taken to repair or remove this property.

Property Address

a. 1535 East Pawnee

Council District

III

This structure has defects that under Ordinance No. 28-251 of the Code of the City of Wichita, shall cause it to be deemed as a dangerous and unsafe building, as required by State Statute for condemnation consideration.

Motion--

Mayans moved that the resolution to schedule a hearing and place this matter on the agenda for a Hearing before the Governing Body on March 8, 2005 at 9:30 a.m. or as soon thereafter be adopted.

--carried

Motion carried 7 to 0.

RESOLUTION NO. 05-043

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lien holders of record and occupants of property legally described as: Lots 2 and 4, block 2, Archie Adams Addition to Wichita, Sedgwick County, Kansas known as 1535 East Pawnee may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

TRAVEL EXPEND. APPROVAL OF TRAVEL EXPENSES FOR COUNCIL MEMBERS TO ATTEND LEGISLATIVE AND KANSAS LEAGUE OF MUNICIPALITIES ACTIVITIES IN TOPEKA, JANUARY 25-27, 2005.

Motion--

Mayans moved that the expenditures be approved. Motion carried 7 to 0.

ORDINANCE **SECOND READING ORDINANCE: (FIRST READ JANUARY 11, 2005)**

a) ZON2004-00058 - generally located at the northwest corner of Douglas and Tyler. (District V)

ORDINANCE NO. 46-447

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans. (ZON2004-00058)

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RECESS

- Motion--carried Mayans moved at 9:47 a.m. to recess into the workshop. Motion carried 7 to 0.
- Motion--carried Vice-Mayor Brewer moved at 11:30 a.m. to adjourn the regular meeting. Motion carried 5 to 0, (Mayans and Schlapp absent).

EXECUTIVE SESSION

- Motion-- Vice-Mayor Brewer moved that the City Council recess into Executive Session at 12:00 p.m. to consider: consultation with legal counsel on matters privileged in the attorney-client relationship relating to: pending litigation; potential litigation; legal advice and matters relating to security of public bodies or agencies, public buildings or facilities, or information systems and that the Council return from executive session no earlier than 12:30 p.m. and reconvene in the first floor boardroom of City Hall. Motion carried 5 to 0, (Mayans and Schlapp absent).
- carried
- Motion-- Mayans moved at 12:30 p.m. to extend the executive session for an additional 20 minutes until 12:50 p.m. Motion carried 7 to 0.
- carried
- Motion--carried Mayans moved at 12:50 p.m. to extend the executive session until 1:05 p.m. Motion carried 7 to 0.
- Mayor Mayans Mayor Mayans stated at 1:05 p.m. that no action was taken as a result of the executive session.
- Motion--carried Mayans moved to adjourn the executive session at 1:05 p.m. Motion carried 6 to 0, (Fearey absent).
- Adjournment The City Council meeting adjourned at 1:06 p.m.

Karen Sublett
City Clerk

Workshop followed